

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	04 C 4838	DATE	12/1/2004
CASE TITLE	GREGORY L. ASHFORD, et al vs. UNNAMED COOK COUNTY CORR OFFICERS		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

MEMORANDUM OPINION AND ORDER

DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due _____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ Local Rule 41.1 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] Enter Memorandum Opinion And Order. Defendants' motion to dismiss plaintiff's complaint is denied.

- (11) ☒ [For further detail see order attached to the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input checked="" type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	LG courtroom deputy's initials	2004 DEC 1 PM 5:50 U.S. DISTRICT COURT NORTHERN DISTRICT OF ILLINOIS	number of notices	Document Number 9
			DEC 09 2004 date docketed	
			0-1 docketing deputy initials	
			date mailed notice	
			mailing deputy initials	
Date/time received in central Clerk's Office				

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

GREGORY L. ASHFORD, NIKITUS)
CROSS, DANIEL JIMERSON, and)
RUFUS WILLIAMS,)

Plaintiffs,)

vs.)

No. 04 C 4838

UNNAMED COOK COUNTY)
CORRECTIONAL OFFICERS, COOK)
COUNTY SHERIFF, and COUNTY OF)
COOK,)

Defendants.)

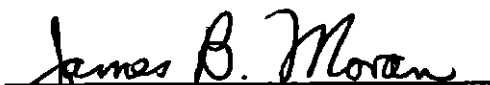
MEMORANDUM OPINION AND ORDER

DOCKETED
DEC 02 2004

Plaintiffs sue for alleged injuries suffered as a result of various civil rights violations.

Cook County moves to dismiss, contending that it is not liable for the actions of persons employed by the Sheriff of Cook County and, besides, plaintiffs have not alleged that they complied with the exhaustion requirement of the Prison Litigation Reform Act.

The County is not itself liable for the conduct of the Sheriff's employees, but it is an indispensable party because it must pay any settlement or judgment. Carver v. Sheriff of LaSalle County, 324 F.3d 947 (7th Cir. 2003). It is a defendant only for Carver purposes. Failure to exhaust is an affirmative defense (and here more properly raised by the Sheriff since the County is merely a stakeholder). It probably is better practice for plaintiffs to allege compliance, but here they have made it clear that they believe they have complied. If they are wrong, we expect some defendant will be so alleging. The motion to dismiss is denied.


JAMES B. MORAN
Senior Judge, U. S. District Court

Dec. 1, 2004

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